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Fifty-third session

SUMMARY RECORD OF THE 1415th MEETING

Held at Headquarters, New York,
on Friday, 7 April 1995, at 10 a.m.

Chairman: Mr. AGUILAR

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CLOSURE OF THE SESSION

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The meeting was called to order at 10.30 a.m.

ORGANIZATIONAL AND OTHER MATTERS (continued)

Future meetings of the Committee

1. The CHAIRMAN said that the proposed calendar of meetings for 1996-1997 called for the fifty-sixth session of the Committee to be held in New York from 18 March to 5 April 1996; the fifty-seventh session in Geneva from 8 to 27 July 1996; the fifty-eighth session in Geneva from 21 October to 8 November 1996; the fifty-ninth session in New York from 24 March to 11 April 1997; the sixtieth session in Geneva from 14 July to 1 August 1997; and the sixty-first session in Geneva from 20 October to 7 November 1997. He took it that the Committee wished to adopt the proposed calendar of meetings for 1996-1997.

2. It was so decided.

Methods of work of the Committee under article 40 of the Covenant

3. The CHAIRMAN drew attention to a working paper (M/CCPR/53/WORKMET/2) containing the recommendations of the Working Group on the methods of work of the Committee under article 40 of the Covenant. He suggested that the Committee should consider the document paragraph by paragraph.

Paragraphs 1 and 2

4. Paragraphs 1 and 2 were adopted.

Paragraph 3

5. Mrs. EVATT suggested that, given the short time available for the consideration of the document, the matter should be referred back to the Working Group. However, she pointed out that recent experience, whereby individual members of the Committee had met informally to consider issues to be raised on the basis of their areas of expertise, had been positive, and a similar approach should be encouraged in future.

6. Mr. LALLAH said that it should not be a matter of establishing a hard-and-fast rule, but rather of gradually adapting the Committee's practice on an informal basis.

7. Mr. PRADO VALLEJO agreed that the text should be returned to the Working Group for further consideration.

8. The CHAIRMAN said he took it that the Committee wished to refer paragraph 3 back to the Working Group for further consideration.

9. It was so decided.

Paragraphs 5, 7 and 8

10. Paragraphs 5, 7 and 8 were adopted.

Paragraph 6

11. Mrs. HIGGINS, supported by Mr. POCAR, proposed that the Committee should adopt the draft comments on follow-up to the activities under article 40 of the Covenant, relations with other United Nations bodies and the equal status and human rights of women. Regarding general comments on articles of the Covenant, the working group should be mandated to systematically review past general comments and identify those which needed to be updated.

12. It was so decided.

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

13. The CHAIRMAN said that, at its fifty-fourth session, which would be held in Geneva in July 1995, the Committee would consider the second periodic report of Afghanistan, the fourth periodic report of Ukraine, the third periodic report of Sri Lanka, the fourth periodic report of the Russian Federation and the fourth periodic report of the United Kingdom. The latter report would deal only with Great Britain and Northern Ireland and the Isle of Man. The Committee would examine the second part of the fourth periodic report of the United Kingdom, which would cover dependencies, at its fifty-fifth meeting in October 1995. The initial reports of Latvia and Estonia had been temporarily set aside. He took it that the members of the Committee agreed to take up those reports at the next session.

14. It was so decided.

15. Mr. BRUNI CELLI said that it was his understanding that the Committee was not planning to take up any reports submitted by Latin American countries even though several Latin American countries had already submitted their reports. The reports of Guatemala and Peru were particularly important.

16. The CHAIRMAN said that all the Latin American reports had been submitted to the Secretariat for translation after September 1995 and the translations had not yet been completed.

17. Mr. ANDO said that it was customary for the Committee to take up at least one initial report at each session, and he wished to know why the Committee had decided not to do so at its fifty-fourth session.

18. The CHAIRMAN said that, at a previous session, the Committee had decided to take up the second periodic report of Afghanistan. However, the Committee had been acting on the assumption that it would in all likelihood take up the initial report of either Estonia or Latvia.

19. Mr. TISTOUNET (Secretary of the Committee) said that, since mid-July 1994, the Secretariat had received 17 reports. The fact that it was receiving more

reports than in the past and that many reports exceeded 150 pages in length, translation of such comprehensive documents required more time. While the Secretariat was making every effort to ensure that the reports were made available on time, it has been facing increasing difficulties in the accomplishment of its work.

Composition of working groups at the fifty-fourth session

20. The CHAIRMAN said that he took it that the Committee agreed that the Working Group on Communications would be composed of Mr. Bhagwati, Mr. El-Shafei, Mr. Mavrommatis, Mr. Pocar and Mr. Prado Vallejo. He said the Working Group on Article 40 of the Covenant would be composed of Mrs. Medina Quiroga, Mr. Francis, Mr. Klein and Mr. Aguilar.

21. It was so decided.

22. The CHAIRMAN said that the Committee had received a letter dated 26 January 1995 from the Permanent Representative of the Federal Republic of Yugoslavia in Geneva in connection with the note verbale of 12 December 1994 requesting the submission of the fourth periodic report of the Federal Republic of Yugoslavia. In his letter, the Permanent Representative of Yugoslavia stated that Yugoslavia would not submit a report since it had not been allowed to take part in the Meeting of the States parties in September 1994.

23. Mrs. HIGGINS said that the Committee had decided that when States were formed within former States they succeeded to the Covenant within their own territories. Therefore, a new act of accession was not strictly required in such cases. The States parties had barred the Federal Republic of Yugoslavia (Serbia and Montenegro) from participating in the Meeting because they considered that the Federal Republic of Yugoslavia intended to participate as the Government of all of the former Yugoslavia. She proposed that the Committee should send a letter to the Permanent Mission of the Federal Republic of Yugoslavia inviting it to submit its report to the Committee as the successor to obligations within Serbia and Montenegro.

24. Mr. POCAR supported Mrs. Higgins' proposal. At a recent session, the Commission on Human Rights had adopted a resolution on State succession that might be used to confirm the Committee's views on the matter.

25. Mrs. EVATT said that the reply to the Federal Republic of Yugoslavia should state that the Committee considered that there was no reason to believe that the obligations of the Federal Republic of Yugoslavia (Serbia and Montenegro) under the Covenant did not continue.

26. Mr. FRANCIS said that he supported the proposal made by Mrs. Higgins and Mr. Pocar. Mrs. Evatt's proposal was acceptable provided that it was made in the context of the approach being taken by the Committee to the States parties. The letter should also indicate that the Committee was pursuing the matter with the States parties with a view to correcting the situation.

27. Mr. LALLAH said that, while the Meeting of the States parties could do whatever it liked, the Human Rights Committee continued to be the monitoring

body for the Covenant. The Committee should indicate that it was receiving the new States of the former Yugoslavia in accordance with the principle explained by Mrs. Higgins.

28. The CHAIRMAN said that he took it that most of the members of the Committee were in favour of sending a letter to the Permanent Mission of the Federal Republic of Yugoslavia as proposed by Mrs. Higgins and supported by Mr. Pocar, Mrs. Evatt, Mr. Francis and Mr. Lallah.

29. Mrs. HIGGINS proposed that a copy of the letter should be sent to the States parties.

30. It was so decided.

31. Mr. TISTOUNET (Secretary of the Committee) said that, at the beginning of the session, the Bureau had decided that members of the Committee should meet with the Permanent Representatives of States parties to the United Nations in order to remind them of their obligations to submit reports. Meetings had been held with the Permanent Representatives of Gabon, Somalia, the Syrian Arab Republic, Suriname, Lebanon, Mali, Jamaica, Guinea, the Central African Republic, the Congo, Trinidad and Tobago, Mauritania, Denmark, Barbados and Rwanda. It had not been possible to meet with the Permanent Representatives of Equatorial Guinea, the Gambia, the Democratic People's Republic of Korea and Angola.

32. There were currently 129 States parties to the Covenant; no States had acceded to the Covenant since the last session. Paraguay had acceded to the First Optional Protocol in January 1994 and Bosnia and Herzegovina had done likewise in March 1994, bringing to 82 the number of States parties to the First Optional Protocol. Twenty-six States had acceded to the Second Optional Protocol.

33. Mr. LALLAH inquired whether any States parties had made the declaration provided for under article 41 of the Covenant.

34. Mr. TISTOUNET (Secretary of the Committee) said that no declarations under article 41 had been made since the previous session. Three notifications had been received under article 4, however, from the Russian Federation, Azerbaijan and Peru.

Proposals for the restructuring of the Centre for Human Rights

35. The CHAIRMAN said that letters from the Director of the Centre for Human Rights and the High Commissioner for Human Rights concerning the proposed restructuring of the Centre for Human Rights had been circulated to members. He invited members to comment.

36. Mrs. HIGGINS said that, on the whole, the proposals seemed to represent a downgrading of the role of treaty bodies and their assimilation to the more political aspects of the protection of human rights. Servicing for the Committee should be provided by staff assigned exclusively to it and having a

specialized background in its area of concern. The need for coordination was taken care of by the meetings of persons chairing the human rights treaty bodies. Thematic and country-specific approaches were not suited to the work of the Committee. All members had noted a deterioration in Secretariat servicing in recent years, owing to the fact that Secretariat staff had frequently been assigned to work on major international conferences. She hoped that the internship programme could be resumed.

37. Mr. LALLAH said that the submission of reports under article 40 involved a great deal of work between the sessions, requiring knowledge of the Committee's history and past practice. Some of the work on communications was highly visible, but most of its was also done between sessions. Requiring the Communications Unit to do other types of work dissipated in the Committee's resources.

38. Mrs. EVATT fully endorsed the statement by Mrs. Higgins. It was simply not possible to separate the technical and substantive aspects of the servicing of treaty bodies, and staff dedicated to a particular treaty body was a basic requirement. The Committee should send a firm reply to the High Commissioner for Human Rights outlining its difficulties with the proposals.

39. Mr. PRADO VALLEJO said that, particularly with regard to communications, the Committee was establishing a body of case-law. It was crucial, therefore, that it should be able to call on experienced staff who understood the Committee's history. Moreover, the problems recently encountered in receiving timely translations of documents had caused delays in the Committee's consideration of periodic reports. The purpose of restructuring should be to improve the working methods of a body, not complicate them. The Bureau should meet with the High Commissioner for Human Rights during the summer session and should follow closely any developments in the restructuring.

40. Mr. FRANCIS said that every element of the corpus of human rights instruments was important, but the International Covenant on Civil and Political Rights had special standing because of its universal nature. Any restructuring that would lower the quality of the Secretariat services available was unacceptable. In his view, the Bureau had a very important role to play. If necessary, the matter should be taken up with the Secretary-General.

41. Mr. POCAR said that he had also noted a decline in the servicing of the Committee over the years. The best outcome of restructuring for the Committee would be a return to the original situation, where one Secretariat unit would provide services to a single treaty body. The Committee's views on restructuring must be made clear to those responsible for the process. The Chairman should draft letters to the Director of the Centre for Human Rights, the High Commissioner for Human Rights and the Secretary-General to inform them of the Committee's very specific needs.

42. Mr. KLEIN said that the establishment of new treaty bodies was a positive development, but attempting to provide services for all such bodies with the same number of staff might become counterproductive in the end.

43. Mr. EL-SHAFEI said that the Vienna Declaration and Programme of Action had stressed the issue of increased resources and financing for human rights treaty bodies. A mechanism must be found for raising funds for such activities, and the matter must be taken up in the Advisory Committee on Administrative and Budgetary Questions.

44. Mr. BUERGENTHAL, concurring with the remark by Mrs. Higgins, said that the large number of States which had acceded to the First Optional Protocol could lead to a significantly increased workload relating to communications. He suggested that the Chairman should meet with the United Nations High Commissioner for Human Rights to discuss the insufficiency of resources available to the Committee.

45. The CHAIRMAN said he would convey the Committee's views to the relevant Secretariat officials.

46. He then drew attention to a letter which had been received from the Government of Mexico, in reply to the Committee's comments made after the consideration of the third periodic report of Mexico in April 1994. He suggested that the matter should be covered in a note in the Committee's next annual report and that the letter should be included as an annex to the report.

47. It was so decided.

CONSIDERATION OF COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL TO THE COVENANT (continued)

48. The CHAIRMAN said he took it that the Committee wished to appoint Mr. Pocar Special Rapporteur for New Communications, and Mr. Mavrommatis the Special Rapporteur for Follow-up on Communications.

49. It was so decided.

50. The CHAIRMAN said that he took it that the Committee wished Mr. Pocar to establish contacts with the Director of the Centre for Human Rights to discuss the problem of communications in non-working languages of the Committee, particularly Russian.

51. It was so decided.

ACTION BY THE GENERAL ASSEMBLY AT ITS FORTY-NINTH SESSION

52. Mr. TISTOUNET (Secretary of the Committee) introduced a note by the Secretariat entitled "Effective implementation of human rights instruments", summarizing the relevant discussions in the Third Committee of the General Assembly. He also drew attention to a number of documents appended for information to the note by the Secretariat, including a summary of the most recent session of the Committee on the Elimination of Racial Discrimination and a document of the Commission on Human Rights. The latter concerned the possible establishment, at the fifty-second session of the Commission, of a working group to consider the desirability of drafting a third optional protocol to the

International Covenant on Civil and Political Rights aiming at guaranteeing under all circumstances the right to a fair trial and a remedy.

53. Mr. POCAR said that since there would not be enough time at the current session for a full debate on the matters mentioned by the Secretary, the item should be taken up again at the Committee's next session.

54. Mrs. HIGGINS concurred with Mr. Pocar's suggestion, and expressed regret that the Commission on Human Rights had decided to consider the question of a third optional protocol to the International Covenant on Civil and Political Rights. If the proposed working group should indeed be set up, steps should be taken to ensure that the Committee's position would be taken into account. She feared that the result of the drafting of such a third optional protocol would be to give some States the impression that the right of habeas corpus could be suspended, and it was of vital importance that the Committee should succeed in getting its point across in that respect.

55. The CHAIRMAN said that, in accordance with Mr. Pocar's proposal, the Committee would revert to the matter of a third optional protocol at the next session.

CLOSURE OF THE SESSION

56. After the customary exchange of courtesies, the CHAIRMAN declared the fifty-third session closed.

The meeting rose at 12.45 p.m.